

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 1819—SMALL BUSINESS PROGRAMS

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1819.001 Definitions.

High-Tech as used in this part means research and/or development efforts that are within or advance the state-of-the-art in a technology discipline and are performed primarily by professional engineers, scientists, and highly skilled and trained technicians or specialists.

Subpart 1819.2—Policies**1819.201 General policy. (NASA supplements paragraphs (a), (c), (d), and (f))**

(a)(i) NASA is committed to providing to small, HUBZone, small disadvantaged, and women-owned small business concerns, maximum practicable opportunities to participate in Agency acquisitions at the prime contract level. The participation of NASA prime contractors in providing subcontracting opportunities to such entities is also an essential part of the Agency's commitment. The participation of these entities is particularly emphasized in high-technology areas where they have not traditionally dominated.

(ii) NASA annually negotiates Agency small, HUBZone, small disadvantaged, and women-owned small business prime and subcontracting goals with the Small Business Administration pursuant to section 15(g) of the Small Business Act (15 U.S.C. 644). In addition, NASA has the following statutory goals based on the total value of prime and subcontract awards:

(A) Under Public Laws 101-144, 101-507, and 102-389, an annual goal of at least 8 percent for prime and subcontract awards to small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small businesses (WOSBs) (see 1819.7000); and

(B) Under 10 U.S.C. 2323, an annual goal of 5 percent for prime and subcontract awards to SDBs, HBCUs, and WOSBs.

(c) The Associate Administrator for Small and Disadvantaged Business Utilization (Code K) is the Agency official responsible for carrying out the duties in FAR 19.201(c).

(d)(i) The center director shall designate a qualified individual in the

contracting office as a small business specialist to provide a central point of contact to which small business concerns may direct inquiries concerning small business matters and participation in NASA acquisitions. The small business specialist shall also perform other functions specifically set forth in this section 1819.201 or that the procurement officer may prescribe, with the concurrence of the Associate Administrator for Small and Disadvantaged Business Utilization, for implementing the Small Business Program. When the center director considers that the volume of acquisitions or the functions relating to acquisitions at the center do not warrant a full-time small business specialist, these duties may be assigned to procurement personnel on a part-time basis.

(ii) Small business specialists appointed under paragraph (d)(i) of this subsection shall perform the following duties, as the procurement officer determines appropriate to the installation:

(A) Maintain a program designed to locate capable small business sources, including those located in labor surplus areas, for current and future acquisitions.

(B) Coordinate inquiries and requests for advice from small business concerns on acquisition matters.

(C) Before issuance of solicitations or contract modifications for additional supplies or services, determine that small business concerns will receive adequate consideration, including making recommendations for initiation of set-asides (see FAR 19.5 and 19.8) and for taking action in accordance with FAR 19.506(b) and 1819.502-70. Participate and provide input early in the acquisition planning phase of proposed acquisitions, including acquisition strategy meetings.

(D) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, work with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for current or future acquisitions will be available.

(E) Review acquisitions for possible breakout of items suitable for acquisition from small business concerns.

(F) Advise small business concerns regarding financial assistance available under laws and regulations, assist such concerns in applying for such assistance, and ensure that small business concerns' requests for financial assistance are not treated as a handicap in securing the award of contracts.

(G) Participate in responsibility determinations (see FAR 9.103) when small business concerns are involved.

(H) Participate in the evaluation of prime contractors' small business subcontracting programs (see FAR 19.705–4).

(I) Review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the Small Business Program.

(J) Ensure that participation of small business concerns is accurately reported.

(K) Make available to SBA copies of solicitations when requested.

(L) Act as liaison between contracting officers and SBA area offices and representatives in connection with set-asides, certificates of competency, and any other matters in which the Small Business Program may be involved.

(M) In cooperation with contracting officers and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information regarding small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(N) When a small business concern's offer has been rejected for non-responsiveness or nonresponsibility, assist that concern, upon its request, in understanding such requirements for future awards.

(O) Advise center personnel, as necessary, on new Governmentwide and Agency-approved small business programs and initiatives.

(f)(1) The NASA Ombudsman, the Deputy Associate Administrator for Procurement (Code H), is the des-

ignated official for determining whether the use of the SDB mechanism in FAR subpart 19.11 has resulted in an undue burden on non-SDB firms in the Department of Commerce designated SIC Major Groups, or is otherwise inappropriate.

[62 FR 36707, July 9, 1997, as amended at 64 FR 25215, May 11, 1999]

1819.202 Specific policies.

1819.202–1 Encouraging small business participation in acquisitions.

1819.202–170 Contract consolidations.

Prior to effecting a contract consolidation valued at \$5 million or more, including options, which will not be exclusively reserved for small or 8(a) firms, the contracting officer, with assistance from the small business specialist and the cognizant technical office, shall prepare an impact assessment of the effects of the consolidation on present and future contracting and subcontracting opportunities for small, small disadvantaged, and women-owned small business. The impact assessment shall address the reasons for the proposed consolidation (especially where apparently unrelated efforts are being combined), the expected benefits, and any actions planned to mitigate or eliminate the impact on small business entities. The impact assessment shall be forwarded to the Associate Administrator for Procurement (Code HS) for concurrence by cognizant Headquarters offices and approval by the Associate Deputy Administrator.

[62 FR 36707, July 9, 1997, as amended at 64 FR 25215, May 11, 1999]

Subpart 1819.3—Determination of Status as a Small Business, HUBZone Small Business, or Small Disadvantaged Business Concern

1819.302 Protesting a small business representation. (NASA supplements paragraph (d))

(d)(1) The contracting officer shall not make awards of small business set-aside acquisitions before the expiration of the period for receipt of a size standard protest.

Subpart 1819.5—Set-Asides for Small Business**1819.502 Setting aside acquisitions.****1819.502-70 Non-initiation of set-asides.**

(a) All cases involving the non-initiation of a set-aside, whether resulting from a joint decision of the small business specialist and the contracting officer or a decision by the contracting officer alone, require referral to the SBA representative (if one is assigned and available) for review.

(b) If the small business specialist recommends that an individual acquisition or a class of acquisition, or a portion thereof, be set aside, the contracting officer shall promptly either concur in or disapprove the recommendation, stating in writing the reasons for disapproval.

(c) When an SBA representative is assigned and available and the contracting officer disapproves the small business specialist's recommendation, the contracting officer shall promptly refer the case to the SBA representative for review. The small business specialist shall take no further appeal action. The SBA representative must either concur with the decision or appeal the case to the procurement officer under FAR 19.505. If the procurement officer approves the contracting officer's decision and the SBA appeals under FAR 19.505(c), the procurement officer shall forward the required written justification, including a history of discussions between the center and the SBA and rationale for the decision, to the Headquarters Office of Procurement (HS).

(d) When an SBA representative is not assigned or available and the contracting officer disapproves the small business specialist's recommendation, the small business specialist may appeal in writing to the procurement officer. The procurement officer's decision shall be final. The contracting officer shall place a memorandum of the procurement officer's decision in the contract file. If the procurement officer's decision approves the contracting officer's action, the small business specialist shall forward complete documentation of the case to the Head-

quarters Office of Small and Disadvantaged Business Utilization (Code K).

(e) The contracting officer shall prepare, sign, and retain in the contract file a memorandum of nonconcurrence in a recommended set-aside action.

§ 1819.502-3 Partial set-asides.**§ 1819.502-370 NASA reporting requirements.**

The contracting officer shall separately report, in accordance with Subpart 1804.6, awards of the non-set-aside portions of small business set-aside acquisitions.

1819.505 Rejecting Small Business Administration recommendations.

See 1819.502-70.

1819.506 Withdrawing or modifying small business set-asides. (NASA supplements paragraph (b))

(b) If an SBA representative is not assigned or available, and the small business specialist disagrees with the contracting officer's written decision of withdrawal or modification of a set-aside determination, the small business specialist may appeal to the procurement officer in accordance with the procedures in 1819.502-70(d).

Subpart 1819.6—Certificates of Competency and Determinations of Responsibility**1819.602 Procedures.****1819.602-1 Referral. (NASA supplements paragraph (a))**

(a) On proposed awards exceeding the simplified acquisition threshold, the contracting officer should consider requesting a preaward survey (see FAR 9.106) before determining that a responsive small business firm is not responsible. The scope of the preaward survey request should be limited to those elements of responsibility that are questioned.

(2) The contracting officer shall forward a copy of the referral to SBA through the procurement officer to the Headquarters Office of Small and Disadvantaged Business Utilization (Code K).

1819.602-3 Resolving differences between the agency and the Small Business Administration.

1819.602-370 NASA procedures.

(a) When agreement cannot be reached between the contracting officer and the SBA Area Office, the contracting officer shall forward to the Headquarters Office of Procurement (Code HS) on an expedited basis, a complete case file with a request that the case be considered for appeal to SBA Headquarters. The contracting officer shall include the data already furnished to SBA, SBA's rationale for proposing to issue a COC, and the contracting officer's comments. The contracting officer shall suspend acquisition action until informed by Code HS of the final decision in the case.

(b) If the Office of Procurement concludes that the referral to SBA should be withdrawn and a contract awarded without benefit of a COC, Code HS shall inform the contracting officer.

(c) If the Office of Procurement agrees with the contracting officer's recommended appeal action, the Associate Administrator for Procurement shall forward the appeal through the Office of Small and Disadvantaged Business Utilization (Code K) to SBA Headquarters.

Subpart 1819.7—The Small Business Subcontracting Program

1819.705-2 Determining the need for a subcontracting plan. (NASA supplements paragraph (d))

(d) Solicitations for competitive negotiated acquisitions shall require proposed subcontracting plans with initial proposals (see 1819.708(b)(1)). For sole source negotiated acquisitions, the contractor shall be required to submit a proposed subcontracting plan with the proposal.

1819.705-4 Reviewing the subcontracting plan.

1819.705-470 Acquisition-specific subcontracting goals.

Section 1819.201 addresses Agency-wide goals at the combined prime and subcontract levels. Appropriate subcontracting goals for an individual acquisition, however, are to be independently determined on the basis of the specific circumstances of the acquisition, consistent with FAR 19.705-4 and 1819.7002(b), and not on the basis of an Agencywide or center goal. Acquisition-specific subcontracting goals should reflect maximum practicable opportunities for all categories of small business concerns to participate in NASA programs, consistent with efficient performance. The methods outlined in NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, may also be useful in establishing reasonable subcontracting goals for small, HUBZone, and women-owned small business concerns.

[62 FR 36707, July 9, 1997, as amended at 64 FR 25215, May 11, 1999]

1819.708 Contract clauses. (NASA supplements paragraph (b))

(b)(1) The contracting officer shall use the clause at FAR 52.219-9 with its Alternate II when contracting by negotiation.

1819.708-70 NASA solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1852.219-73, Small Business Subcontracting Plan, in invitations for bids containing the clause at FAR 52.219-9 with its Alternate I. Insert in the last sentence the number of calendar days after request that the offeror must submit a complete plan.

(b) The contracting officer shall insert the clause at 1852.21975, Small Business Subcontracting Reporting, in

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solicitations and contracts containing the clause at FAR 52.219-9, except for contracts covered by an approved commercial plan.

[64 FR 25215, May 11, 1999]

Subpart 1819.8—Contracting With the Small Business Administration (the 8(a) Program)

1819.804 Evaluation, offering, and acceptance.

1819.804-1 Agency evaluation.

The small business specialist shall review and evaluate all acquisition requirements to determine their suitability for offering to SBA for 8(a) acceptance and make a recommendation to the contracting officer concerning award to SBA.

Subpart 1819.10—Small Business Competitiveness Demonstration Program

1819.1005 Applicability. (NASA supplements paragraph (b))

(b) The targeted industry categories for NASA and their Standard Industrial Classification (SIC) codes are:

SIC—Industry

Code—Category

3571—Electronic Computers

3577—Computer Peripheral Equipment, not elsewhere classified

3663—Radio & TV Broadcasting and Communications Equipment

3764—Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts

3769—Guided Missile and Space Vehicle Parts and Auxiliary Equipment, not elsewhere classified

3812—Search, Detection, Navigation, Guidance, Aeronautical, and Nautical Systems and Instruments

3827—Optical Instruments and Lenses

7371—Computer Programming Services

7373—Computer Integrated Systems Design

7379—Computer Related Services, not elsewhere classified.

Subpart 1819.70—NASA 8 Percent Goal

1819.7000 General.

Public Laws 101-144, 101-507, and 102-389 require the NASA Administrator to ensure, to the fullest extent possible, that at least 8% of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns.

1819.7001 Definitions.

(a) *Small Disadvantaged Business (SDB) concern* and *Women-Owned Small Business (WOSB) concern* are defined in FAR 19.001.

(b) *Historically Black College or University (HBCU)* and *Minority Institution (MI)* are defined in FAR 26.301.

1819.7002 Contracting officer responsibility.

(a) Contracting officers must seek out as potential sources entities identified in 1819.7001 and give full consideration to these entities to satisfy NASA requirements. The participation of NASA prime contractors is also essential to meeting the Agency's 8 percent goal.

(b) NASA Policy Directive (NPD) 5000.2, Uniform Methodology for Determination of Small Disadvantaged Subcontracting Goals, contains guidance on developing realistic goals. It is applicable to acquisitions expected to exceed \$50 million, including options. The methodology may be used for lesser value acquisitions.

1819.7003 Contract clause.

The contracting officer shall insert the clause at 1852.219-76, NASA 8 Percent Goal, in all solicitations and contracts other than those below the simplified acquisition threshold or when the contract, together with all its subcontracts, is to be performed entirely

outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.71—NASA Rural Area Small Business Plan

1819.7101 Definition.

Rural area means a county with a population of fewer than twenty thousand individuals.

1819.7102 General.

Pursuant to Public Law 100-590, NASA established a Rural Area Business Enterprise Development Plan, including methods for encouraging prime and subcontractors to use small business concerns located in rural areas as subcontractors and suppliers. One method is to encourage the contractor to use its best efforts to comply with the intent of the statute.

1819.7103 Solicitation provision and contract clause.

The contracting officer shall insert the clause at 1852.219-74, Use of Rural Area Small Businesses, in solicitations and contracts that offer subcontracting possibilities or that are expected to exceed \$500,000 (\$1,000,000 for construction of public facility) unless the contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

Subpart 1819.72—NASA Mentor-Protege Program

§ 1819.7201 Scope of subpart.

The NASA Mentor-Protege Program is designed to incentivize NASA prime contractors to assist small disadvantaged business (SDB) concerns, Historically Black Colleges and Universities (HBCUs), minority institutions (MIs), and women-owned small business (WOSB) concerns, in enhancing their capabilities to perform NASA contracts and subcontracts, foster the establishment of long-term business rela-

tionships between these entities and NASA prime contractors, and increase the overall number of these entities that receive NASA contract and subcontract awards.

[64 FR 10571, Mar. 5, 1999]

1819.7202 Definitions.

High-Tech is defined in 1819.001.

1819.7203 Non-affiliation.

For purposes of the Small Business Act, a protege firm may not be considered an affiliate of a mentor firm solely on the basis that the protege firm is receiving developmental assistance referred to in 1819.7214 from such mentor firm under the Program. In addition, NASA shall not consider partial ownership, up to 10 percent, of a Department of Defense (DOD)-sanctioned protege firm by its DOD mentor to constitute affiliation.

1819.7204 Transportability of features from the Department of Defense (DOD) Mentor-Protege program to NASA contractors.

(a) In accordance with the benefits authorized by the DOD Mentor-Protege Program (Public Law 101-510, Section 831, as amended by Public Law 102-190, Section 814), a NASA contractor who is also an approved DOD mentor can transfer credit features to their NASA contractors.

(b) NASA prime contractors, who are approved DOD mentors, can award subcontracts noncompetitively under their NASA contracts to the proteges which they are assisting under the DOD Program (Public Law 101-510, Section 831(f)(2)).

(c) NASA prime contractors may count the costs of developmental assistance provided of proteges being assisted under the DOD Program toward meeting the goals in their subcontracting plans under their NASA prime contracts (Public Law 102-190, Section 814). Limitations which may reduce the value of this benefit include:

(1) Credit toward attaining subcontracting goals is available only to the extent that the developmental assistance costs have not been reimbursed to the contractor by DOD as direct or indirect costs; or

(2) The credit is available to meet the goals of a NASA subcontracting plan only to the extent that it has not been applied to a DOD subcontracting plan. The same unreimbursed developmental assistance costs cannot be counted toward meeting the subcontracting goals of more than one prime contract. These costs would accrue from credit for the multiples attributed to assistance provided by Small Business Development Centers, Historically Black Colleges and Universities and minority institutions.

(d) The features identified in paragraphs (a), (b) and (c) of this section point out the portability of features from the DOD Mentor-Protege Program to NASA prime contractors. NASA mentors will be held to show "good faith" by providing actual developmental assistance beyond transferring credit from activity in the DOD Program to NASA subcontracting plans.

1819.7205 General policy.

(a) Eligible large business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", who have at least one active subcontracting plan, and who are approved as mentor firms may enter into agreements with eligible entities (as defined in 1819.7209) as proteges to provide appropriate developmental assistance to enhance the capabilities of proteges to perform as subcontractors and suppliers. Eligible small business prime contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs", and that are capable of providing developmental assistance to proteges, may also be approved as mentors. An active mentor-protege arrangement requires the protege to be a subcontractor under the mentor's prime contract with NASA.

(b) The Mentor-Protege program may be used in cost reimbursement type contracts and contracts that include an award fee incentive. Costs incurred by a mentor to provide the developmental assistance described in 1819.7214 are allowable. Except for cost-plus-award-fee contracts, such proposed costs shall not be included in the cost

base used to develop a fee objective or to negotiate fee. On contracts with an award fee incentive, a contractor's Mentor-Protege efforts shall be evaluated under the award fee evaluations.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10571, Mar. 5, 1999]

§ 1819.7206 Incentives for prime contractor participation.

(a) Proposed mentor-protege efforts, except for the extent of participation of proteges as subcontractors, shall be evaluated under the Mission Suitability factor as a subfactor or element. The participation of SDB proteges as subcontractors shall be evaluated separately as a Mission Suitability subfactor (see FAR 15.304(c)(4) and 19.1202). The participation of other categories of proteges as subcontractors may be evaluated separately as part of the evaluation of proposed subcontracted efforts.

(b) Under contracts with award fee incentives, approved mentor firms shall be eligible to earn award fee associated with their performance as a mentor by performance evaluation period. For purposes of earning award fee, the mentor firm's performance shall be evaluated against the criteria described in the clause at 1852.219-79, Mentor Requirements and Evaluation. This award fee evaluation shall not include assessment of the contractor's achievement of FAR 52.219-9 subcontracting plan SDB goals or proposed monetary targets for SDB subcontracting (see FAR 19.1203).

[64 FR 10571, Mar. 5, 1999]

1819.7207 Measurement of Program success.

The overall success of the NASA Mentor-Protege Program encompassing all participating mentors and proteges will be measured by the extent to which it results in:

(a) An increase in the number, dollar value and percentage of subcontractors awarded to proteges by mentor firms under NASA contracts since the date of entry into the Program;

(b) An increase in the number and dollar value of contract and subcontract awards to protege firms since

the time of their entry into the Program (under NASA contracts, contracts awarded by other Federal agencies and under commercial contracts);

(c) An increase in the number and dollar value of subcontracts awarded to a protege firm by its mentor firm; and

(d) An increase in subcontracting with protege firms in industry categories where they have not traditionally participating within the mentor firm's activity.

1819.7208 Mentor firms.

(a) Eligibility:

(1) Contractors eligible for receipt of government contracts;

(2) Large prime contractors performing under contracts with at least one negotiated subcontracting plan as required by FAR 19.7; and

(3) Small business prime contractors that can provide developmental assistance to enhance the capabilities of proteges to perform as subcontractors and suppliers.

(b) Mentors will be encouraged to identify and select as proteges:

(1) A broad base of firms including those defined as emerging firms (e.g., a protege whose size is no greater than 50 percent of the size standard applicable to the SIC code assigned to a contracting opportunity);

(2) Firms in addition to those with whom they have established business relationships; and

(3) High-tech firms.

1819.7209 Protege firms.

(a) For selection as a protege, a firm must be:

(1) An SDB in the SIC Major Groups as determined by the Department of Commerce (see FAR 19.201(b)), HBCU, MI, or WOSB;

(2) Certified as small in the SIC code for the services or suppliers to be provided by the protege under its subcontract to the mentor; and

(3) Eligible for receipt of government contracts.

(b) Except for SDBs, a protege firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (a) of this section. Mentors may rely in good faith on written representations by potential proteges that they meet the specified eligibility re-

quirements. SDB status eligibility and documentation requirements are determined according to FAR 19.304.

(c) Proteges may have multiple mentors. Proteges participating in mentor-protege programs in addition to the NASA Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10571, Mar. 5, 1999]

1819.7210 Selection of protege firms.

(a) Mentor firms will be solely responsible for selecting protege firms. The mentor is encouraged to identify and select the types of protege firms listed in 1819.7208(b).

(b) Mentor firms may have more than one protege.

(c) The selection of protege firms by mentor firms may not be protested, except for a protest regarding the size or eligibility status of an entity selected by a mentor to be a protege. Such protests shall be handled in accordance with FAR 19.703(b). The contracting officer shall notify the Headquarters Office of Small and Disadvantaged Business Utilization (OSDBU) (Code K) of the protest.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

1819.7211 Application process for mentor firms to participate in the Program.

(a) Prime contractors interested in becoming a mentor firm must submit a request to the NASA OSDBU to be approved under the Program. The application will be evaluated on the extent to which the company plans to provide developmental assistance. The information required in paragraph (b) of this section must be submitted to be considered for approval as a mentor firm.

(b) A proposed mentor must submit the following information to the NASA OSDBU:

(1) A statement that the mentor firm is currently performing under at least one active approved subcontracting plan (small business exempted) and that they are eligible, as of the date of application, for the award of Federal contracts;

(2) The cognizant NASA contract number(s), type of contract, period of performance (including options), title of technical program effort, name of NASA Program Manager (including contact information) and name of the NASA field center where support is provided;

(3) The number of proposed mentor-protege arrangements;

(4) Data on all current NASA contracts and subcontracts to include the contract/subcontract number(s), period of performance, awarding NASA installation or contractor and contract/subcontract value(s) including options;

(5) Data on total number and dollar value of subcontracts awarded under NASA prime contracts within the past 2 years and the number and dollar value of such subcontracts awarded to entities defined as proteges.

(6) Information on the proposed types of developmental assistance. For each proposed mentor-protege relationship include information on the company's ability to provide developmental assistance to the identified protege firm and how that assistance will potentially increase subcontracting opportunities for the protege firm, including subcontracting opportunities in industry categories where these entities are not dominant in the company's current subcontractor base; and

(7) A Letter of Intent signed by both parties. At a minimum, the Letter of Intent must include the stated commitment that the parties intend to enter into a mentor-protege agreement under the NASA Program, that they intend to cooperate in the establishment of a suitable developmental assistance program to meet their respective needs, and that they agree to comply with the obligations in 1819.7215 and all other provisions governing the Program.

1819.7212 OSDBU review and approval process of agreement.

(a) The information specified in 1819.7211(b) is reviewed by the NASA OSDBU. This review will be completed no later than 30 days after receipt by the OSDBU. The OSDBU will provide a copy of the submitted information to the cognizant NASA technical program

manager and contracting officer for a parallel review and concurrence.

(b) If OSDBU approves the application, then the mentor

(1) Negotiates an agreement with the protege; and

(2) Submits an original and two (2) copies of the agreement to the OSDBU for approval by the NASA Mentor-protege program manager, the NASA technical program manager, and the contracting officer.

(c) Upon agreement approval, the mentor may implement a developmental assistance program.

(d) An approved agreement will be incorporated into the mentor's contract with NASA. It should be added to the subcontracting plan in contracts which contain such a plan.

(e) If OSDBU disapproves the application, then the mentor may provide additional information for reconsideration. The review of any supplemental material will be completed within 30 days after receipt by the OSDBU. Upon finding deficiencies that NASA considers correctable, the OSDBU will notify the mentor and request information to be provided within 30 days that may correct the deficiencies.

1819.7213 Agreement contents.

The contents of the agreement must contain:

(a) Names and addresses of mentor and protege firms and a point of contact within both firms who will oversee the agreement;

(b) Procedures for the mentor firm to notify the protege firm, OSDBU, and the contracting officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Program;

(c) Procedures for a protege firm to notify the mentor firm in writing at least 30 days in advance of the protege firm's intent to voluntarily terminate the mentor-protege agreement. The mentor shall notify the OSDBU and the contracting officer immediately upon receipt of such notice from the protege;

(d) A description of the type of developmental program that will be provided by the mentor firm to the protege firm, to include a description

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of the subcontract work, and a schedule for providing assistance and criteria for evaluation of the protege developmental success;

(e) A listing of the number and types of subcontracts to be awarded to the protege firm;

(f) Program participation term;

(g) Termination procedures;

(h) Plan for accomplishing work should the agreement be terminated; and

(i) Other terms and conditions, as appropriate.

1819.7214 Developmental assistance.

The forms of developmental assistance a mentor can provide to a protege include:

(a) Management guidance relating to—

(1) Financial management,

(2) Organizational management,

(3) Overall business management/planning, and

(4) Business development;

(b) Engineering and other technical assistance;

(c) Noncompetitive award of subcontracts under NASA contracts;

(d) Progress payments based on costs. The customary progress payment rate for all NASA contracts with small disadvantaged businesses is 95 percent. This customary progress payment rate for small disadvantaged businesses may be used by prime contractors;

(e) Advance payments. While a mentor can make advance payments to its proteges who are performing as subcontractors, the mentor will only be reimbursed by NASA for these costs if advance payments have been authorized in accordance with 1832.409-170;

(f) Loans;

(g) Rent-free use of facilities and/or equipment; and

(h) Temporary assignment of personnel to the protege for purpose of training.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

1819.7215 Obligation.

(a) The mentor or protege may voluntarily withdraw from the Program as mutually agreed by both mentor and protege.

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(b) Mentor and protege firms will submit a “lessons learned” evaluation to the NASA OSDBU at the conclusion of each NASA contract subject to the approved Mentor-Protege agreement.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

1819.7216 Internal controls.

(a) The NASA OSDBU will manage the Program. Internal controls will be established by the OSDBU to achieve the stated program objectives (by serving as checks and balances against undesired actions or consequences) such as:

(1) Reviewing and evaluating mentor applications for realism, validity and accuracy of provided information;

(2) Reviewing any semi-annual progress reports submitted by mentors and proteges on protege development to measure protege progress against the master plan contained in the approved agreement.

(3) Site visits to NASA installation where mentor-protege activity is occurring.

(b) NASA may terminate mentor-protege agreements for good cause and exclude mentor or protege firms from participating in the NASA program. These actions shall be approved by the NASA OSDBU. NASA shall terminate an agreement by delivering to the contractor a Notice specifying the reason for termination and the effective date. Termination of an agreement does not constitute a termination of the subcontract between the mentor and the protege. A plan for accomplishing the subcontract effort should the agreement be terminated shall be submitted with the agreement as required in NFS 1819.7213(h).

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

1819.7217 Reports.

(a) Semi-annual reports shall be submitted by the mentor to the NASA Mentor-Protege program manager, the NASA OSDBU, to include information as outlined in 1852.219-79(b).

(b) Proteges are encouraged to submit semi-annual reports to the OSDBU on Program progress pertaining to

their mentor-protege agreement. However, costs associated with the preparation of these reports are unallowable costs under Government contracts and will not be reimbursed by the Government.

(c) The NASA technical program manager shall include an assessment of the prime contractor's (mentor's) performance in the Mentor-Protege Program in a quarterly 'Strengths and Weaknesses' evaluation report. A copy of this assessment will be provided to the OSDBU and the contracting officer.

(d) The NASA Mentor-Protege program manager will submit semi-annual reports to the cognizant contracting officer regarding the participating prime contractor's performance in the Program for use in the award fee determination process.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

1819.7218 Program review.

At the conclusion of each year in the Mentor-Protege Program, the prime contractor and protege, as appropriate, will formally brief the NASA OSDBU, the technical program manager, and the contracting officer regarding Program accomplishments pertaining to the approved agreement. This review will be incorporated into the normal program review, where applicable. A separate review will be scheduled for other contracts to be held at the NASA work site location.

1819.7219 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 1852.219-77, NASA Mentor-Protege Program, in:

(1) Cost reimbursement solicitations and contracts, or solicitations and contracts with award fee incentives, that include the clause at FAR 52.219-9, Small Business Subcontracting Plan;

(2) Small business set-asides of the contract types in (a)(1) of this section with values exceeding \$500,000 (\$1,000,000 for construction) that offer subcontracting opportunities.

(b) The contracting officer shall insert the clause at 1852.219-79, Mentor Requirements and Evaluation, in contracts where the prime contractor is a

participant in the NASA Mentor-Protege Program.

[62 FR 36707, July 9, 1997, as amended at 64 FR 10572, Mar. 5, 1999]

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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